

1 EDMUND G. BROWN JR.
Attorney General of California
2 GLORIA A. BARRIOS
Supervising Deputy Attorney General
3 MICHAEL A. CACCIOTTI
Deputy Attorney General
4 State Bar No. 129533
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2932
6 Facsimile: (213) 897-2804
Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
9 **STATE OF CALIFORNIA**

10 In the Matter of the Petition to Revoke
11 Probation Against,

Case No. 2000-193

12 **PIERRE WASOLUA NSILU**
aka WASOLUA NSILU
13 575 E. 213th Street
14 Carson, CA 90745

PETITION TO REVOKE PROBATION

15 Registered Nurse License No. 703005
Public Health Nurse Certificate No. 74137

16 Respondent.

17
18 Louise R. Bailey, M.Ed., RN ("Complainant") alleges:

19 **PARTIES**

20 1. Complainant brings this Petition to Revoke Probation solely in her official
21 capacity as the Interim Executive Officer of the Board of Registered Nursing ("Board"),
22 Department of Consumer Affairs.

23 **Registered Nurse License**

24 2. On or about May 3, 2007, the Board issued Registered Nurse License No. 703005
25 ("license") to Pierre Wasolua Nsilu also known as Wasolua Nsilu ("Respondent"). The license
26 will expire on May 31, 2011, unless renewed.

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1 **Public Health Nurse Certificate**

2 3. On or about September 18, 2008, the Board issued Public Health Nurse Certificate
3 No. 74137 to Respondent. The certificate will expire on May 31, 2011, unless renewed.

4 **Prior Discipline**

5 4. Effective January 10, 2001, pursuant to the Decision in Statement of Issues No.
6 2000-193, the Board of Registered Nursing adopted the Proposed Decision of the Administrative
7 Law Judge dated November 15, 2000, as its final decision and Respondent's application for
8 licensure was granted; however, upon issuance of Respondent's license, it was to be immediately
9 revoked, the revocation stayed, and Respondent placed on probation for a period of two (2) years
10 on terms and conditions. A copy of the Decision is attached as Exhibit A and is incorporated
11 herein by reference.

12 5. Respondent subsequently passed the National Council Licensure Examination
13 ("NCLEX") and was issued his registered nurse license on May 3, 2007, as further set forth in
14 paragraph 2, above.

15 **STATUTORY PROVISIONS**

16 6. Business and Professions Code ("Code") section 2750 provides, in pertinent part,
17 that the Board may discipline any licensee, including a licensee holding a temporary or an
18 inactive license, for any reason provided in Article 3 (commencing with Code section 2750) of
19 the Nursing Practice Act.

20 7. Code section 118, subdivision (b), states:

21 The suspension, expiration, or forfeiture by operation of law of a license issued by a
22 board in the department, or its suspension, forfeiture, or cancellation by order of the
23 board or by order of a court of law, or its surrender without the written consent of
24 the board, shall not, during any period in which it may be renewed, restored,
25 reissued, or reinstated, deprive the board of its authority to institute or continue a
26 disciplinary proceeding against the licensee upon any ground provided by law or to
27 enter an order suspending or revoking the license or otherwise taking disciplinary
28 action against the licensee on any such ground.

8. California Code of Regulations, title 16, section 1490, subdivision (b), states:

A Public Health Nurse Certificate shall remain valid as long as the person's license
to practice as a registered nurse in California is active.

1 9. Grounds exist for revoking the probation and reimposing revocation of
2 Respondent's Registered Nurse License No. 703005. Condition 2 of the Decision, Case No.
3 2000-193, states, in pertinent part:

4 Respondent shall fully comply with the terms and conditions of the Probation
5 Program established by the Board and cooperate with representatives of the Board
6 in its monitoring and investigation of Respondent's compliance with the Probation
7 Program. . .

8 10. Condition 19 of the Decision states:

9 If during the period of probation, an accusation or petition to revoke probation has
10 been filed against Respondent's license or the Attorney General's Office has been
11 requested to prepare an accusation or petition to revoke probation against
12 Respondent's license, the probationary period shall automatically be extended and
13 shall not expire until the accusation or petition has been acted upon by the Board. . .

14 11. Respondent has violated the Board's Probation Program, by failing to comply with
15 Probation Conditions No. 5 and 8, as more fully set forth below.

16 **FIRST CAUSE TO REVOKE PROBATION**

17 **(Failure to Submit Written Reports)**

18 12. At all times after the effective date of Respondent's probation, Condition 5 states,
19 in pertinent part:

20 Respondent, during the period of probation, shall submit or cause to be submitted
21 such written reports/declarations and verification of actions under penalty of
22 perjury, as required by the Board. These reports/declarations shall contain
23 statements relative to Respondent's compliance with all the terms and conditions of
24 the Board's Probation Program. Respondent shall immediately execute all release
25 of information forms as may be required by the Board or its representatives.

26 13. Respondent's probation is subject to revocation in that he failed to comply with
27 Probation Condition 5, as he did not submit the required quarterly reports for the periods October
28 1, 2008, through December 31, 2008, and January 1, 2009, through March 31, 2009.

SECOND CAUSE TO REVOKE PROBATION

(Failure to Obtain Approval Prior to Commencing Employment)

 14. At all times after the effective date of Respondent's probation, Condition 8 states,
in pertinent part:

Respondent shall obtain prior approval from the Board before commencing any employment, paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all performance evaluations and other employment related reports as a registered nurse upon request of the Board.

15. Respondent's probation is subject to revocation in that he failed to comply with Probation Condition 8, as follows:

16. Respondent failed to receive prior approval from the Board before commencing employment as a registered nurse, as follows:

a. On November 7, 2008, the Nursing Education Consultant ("NEC") approved a job for Respondent at St. Vincent. Respondent notified the Nurse Consultant and his Probation Monitor that he was rejecting the offer because he would lose his health benefits at the county job he held at the time. The Board's Probation Program then denied Respondent's job at St. Vincent because he was already working a full-time day job with the county.

b. On January 28, 2009, the NEC approved a registered nurse job for Respondent at USC University Hospital based upon the fact that he was no longer working at his county job. On February 5, 2009, Respondent started full-time employment.

c. On February 26, 2009, the Board's Probation Program was notified that Respondent had accepted and completed orientation for a job at LA County USC. This job was not pre-approved.

d. On March 20, 2009, the Board's Probation Program again received job approval documents from Respondent for St. Vincent Medical Center. On March 25, 2009, the NEC and Probation Monitor were notified that Respondent had already been employed full time with St. Vincent since January 4, 2009, and he was seeking a transfer to another unit.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking the probation that was granted by the Board of Registered Nursing in Case No. 2000-193, and imposing the disciplinary order that was stayed thereby revoking Registered Nurse License No. 703005, issued to Pierre Wasolua Nsilu also known as Wasolua Nsilu;

- 1 2. Revoking or suspending Registered Nurse License No. 703005, issued to Pierre
2 Wasolua Nsilu also known as Wasolua Nsilu;
3 3. Revoking or suspending Public Health Nurse Certificate No. 74137, issued to Pierre
4 Wasolua Nsilu also known as Wasolua Nsilu; and
5 4. Taking such other and further action as deemed necessary and proper.

6 DATED: _____
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3/17/10

Louise R. Bailey
LOUISE R. BAILEY, M.Ed., RN

Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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Exhibit A

Decision and Order

Board of Registered Nursing Case No. 2000-193

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2
3 BEFORE THE
4 BOARD OF REGISTERED NURSING
5 DEPARTMENT OF CONSUMER AFFAIRS
6 STATE OF CALIFORNIA

6 In the Matter of the Accusation)
7 Against:)

8 PIERRE WASOLUA NSILU)
9 1527 ROCK GLEN AVENUE, #106)
10 GLENDALE, CA 91205)

CASE NO. 2000-193
OAH NO. L-200090035

11 APPLICANT)
12)

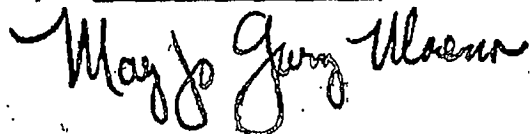
12 Respondent)
13)

14 DECISION

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16 The attached Proposed Decision is hereby adopted by the Board of
17 Registered Nursing as its decision in the above-entitled matter, with the exception
18 of lessening the period of probation from three (3) years to two (2) years.

19 This decision shall become effective on January 10th, 2001.

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21 IT IS SO ORDERED this 11th day of December, 2000.

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23
24 Mary Jo Gorney-Moreno, Ph.D, RN
25 President
26 Board of Registered Nursing
27

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Statement
Of Issues Against:**

**PIERRE WASOLUA NSILU
1527 Rock Glen Avenue #106
Glendale, CA 91205**

Case No. 2000-193

OAH No. L2000090035

Respondent.

PROPOSED DECISION

This matter came on regularly for hearing on October 31, 2000, in Los Angeles, California, before H. Stuart Waxman, Administrative Law Judge, Office of Administrative Hearings, State of California.

Complainant, Ruth Ann Terry, M.P.H., R.N., ("Complainant"), was represented by Earl R. Plowman, Deputy Attorney General.

Respondent, Pierre Wasolua Nsilu ("Respondent"), was present and represented himself.

Oral and documentary evidence was received. The record was closed and the matter was submitted for decision.

FACTUAL FINDINGS

The Administrative Law Judge makes the following Factual Findings:

1. The Statement of Issues was made by Ruth Ann Terry, M.P.H., R.N., Complainant, who is the Executive Officer, Board of Registered Nursing, Department of Consumer Affairs, State of California, acting in her official capacity.

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2. On or about January 6, 1999, the Board of Registered Nursing ("the Board") received a request for reexamination for a registered nurse license ("the request") from Respondent. The request was denied and this matter ensued.

3. On December 17, 1998, in Municipal Court of Los Angeles, Criminal Judicial District, County of Los Angeles, State of California, in Case No. 8CR30391, Respondent was convicted, on his plea of nolo contendere, of violation of Penal Code section 415 (Disturbing the Peace), a crime which, by its facts and circumstances, is substantially related to the qualifications, functions and duties of a registered nurse.

4. Respondent was placed on summary probation for a period of 36 months under various terms and conditions. He was ordered to pay fines and restitution totaling \$300 and to perform 450 hours of community service. He has completely and satisfactorily complied with those two orders.

5. The facts and circumstances underlying the conviction are that, during an argument, Respondent committed an act of domestic violence against his wife. Both Respondent and his wife were holding onto a door. Respondent pulled the door causing them both to fall to the floor.¹ Respondent then left their apartment. The following day, Respondent returned to his home to retrieve a book. He was unaware that his wife had obtained a restraining order against him. The locks had been changed on his apartment. When he asked the apartment manager to assist him in entering his apartment, she telephoned the police and Respondent was arrested.

6. The incident was triggered by feelings of resentment on the part of Respondent's wife. She had recently given birth to their second child and felt that Respondent was spending too much time on his job and studying to become a registered nurse, and was not providing enough attention to her and to their children. In addition, Respondent and his wife were experiencing financial hardships that were placing a strain on their marriage.

7. Respondent is a native of Africa. His primary language is French. At the time he entered his nolo contendere plea, he believed he was doing so with respect to violating the restraining order rather than for disturbing the peace.

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¹ According to the police report, Respondent's wife claimed Respondent had grabbed her by the arms, thrown her into a kitchen wall, and tried to choke her. Respondent's wife denies making that statement to the police. She was consistent in her written statement to the Board and in her testimony at the administrative hearing that the incident occurred as set forth in Finding No. 5, above. That version is also consistent with Respondent's version. The testimony of both Respondent and his wife at the administrative hearing concerning how the incident occurred is deemed to have been credible.

8. Since the incident, Respondent and his wife have been participating in marriage counseling. They are continuing to do so now. In addition, Respondent has taken a continuing education course relating to domestic violence. Although they are still living apart, Respondent and his wife are in the process of reconciling and are planning on purchasing a home in which they will continue to raise their two children. Respondent is a religious man who studies the Bible. He is committed to his family and to non-violence.

9. Respondent enjoys an excellent reputation as a hard working, conscientious and selfless individual who is quick to assist others in need. He has volunteered in various capacities to assist African immigrants and refugees. He is also known as a kind, loving and non-violent family man who adores his wife and children. That view is corroborated by Respondent's wife.

10. Respondent is dedicated to nursing. He has been employed as a Patient Care Tech and as a Certified Nursing Assistant. His work has been deemed outstanding by his supervisors and co-workers.

LEGAL CONCLUSIONS

Pursuant to the foregoing Factual Findings, the Administrative Law Judge makes the following legal conclusions:

1. Cause exists for the denial of Respondent's application pursuant to Business and Professions Code section 480(a)(3) for acts which, if done by a licensee, would be grounds for suspension or revocation of the license, as that section interacts with section 2761(f), (conviction of a crime substantially related to the qualifications, functions and duties of a registered nurse), as set forth in Findings 3, 4, 5 and 6.

The incident which gave rise to Respondent's conviction was the result of hurt feelings on the part of Respondent's wife, coupled with Respondent's high stress level from the pressures of his job, his schooling and his financial problems. Respondent has taken appropriate steps toward rehabilitation by participating in marriage counseling and the domestic violence continuing education course. Respondent's excellent reputation as a non-violent, loving and devoted family man evidence a low risk of recidivism. His strong work ethic and dedication to his chosen profession make Respondent a promising candidate for a career in registered nursing. The public interest should be adequately protected by the issuance of a properly conditioned probationary license.

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ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

The application of Respondent, Pierre Wasolua Nsilu, for licensure is hereby granted. Upon successful completion of the licensure examination and all other licensing requirements, a license shall be issued to Respondent. Said license shall immediately be revoked, the order of revocation stayed and Respondent placed on probation for a period of three (3) years on the following terms and conditions:

1. Respondent shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by Respondent to the Board in writing within seventy-two (72) hours of conviction. To permit monitoring of compliance with this term, Respondent shall submit completed fingerprint cards and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process. Respondent shall submit a recent 2" X 2" photograph of himself or herself within 45 days of the effective date of the final decision.

2. Respondent shall fully comply with the terms and conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of Respondent's compliance with the Probation Program. Respondent shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.

3. Respondent, during the period of probation, shall appear in person at interviews/ meetings as directed by the Board or its designated representatives.

4. Periods of residency or practice as a registered nurse outside of California will not apply to the reduction of this probationary term. Respondent must provide written notice to the Board within 15 days of any change of residency or practice outside the state.

5. Respondent, during the period of probation, shall submit or cause to be submitted such written reports/declarations and verification of actions under penalty of perjury, as required by the Board. These reports/declarations shall contain statements relative to Respondent's compliance with all the terms and conditions of the Board's Probation Program. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.

6. Respondent shall provide a copy of this decision to the nursing regulatory agency in every state and territory in which he has a registered nurse license.

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7. Respondent, during the period of probation, shall engage in the practice of registered nursing in California for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

For purposes of compliance with the section, "engage in the practice of registered nursing" may include, when approved by the Board, volunteer work as a registered nurse, or work in any non-direct patient care position that requires licensure as a registered nurse.

The Board may require that advanced practice nurses engage in advanced practice nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

If Respondent has not complied with this condition during the probationary term, and Respondent has presented sufficient documentation of his good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of Respondent's probation period up to one year without further hearing in order to comply with this condition.

8. Respondent shall obtain prior approval from the Board before commencing any employment, paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all performance evaluations and other employment related reports as a registered nurse upon request of the Board.

9. Respondent shall provide a copy of this decision to his or her employer and immediate supervisor prior to commencement of any nursing or other health care related employment.

10. Respondent shall notify the Board in writing within seventy-two (72) hours after he obtains any nursing or other health care related employment, when such employment is not as a registered nurse. Respondent shall notify the Board in writing within seventy-two (72) hours after he is terminated from any registered nursing, other nursing, or other health care related employment with a full explanation of the circumstances surrounding the termination.

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11. Respondent shall obtain prior approval from the Board regarding Respondent's level of supervision and/or collaboration before commencing any employment as a registered nurse.

Respondent shall practice only under the direct supervision of a registered nurse in good standing (no current discipline) with the Board of Registered Nursing, unless alternative methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are approved.

Respondent's level of supervision and/or collaboration may include, but is not limited to the following:

(a) Maximum - The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.

(b) Moderate - The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours Respondent works.

(c) Minimum - The individual providing supervision and/or collaboration has person-to-person communication with Respondent at least twice during each shift worked.

(d) Home Health Care - If Respondent is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person-to-person communication with Respondent as required by the Board each work day. Respondent shall maintain telephone or other telecommunication contact with the individual providing supervision and/or collaboration as required by the Board during each workday. The individual providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to patients' homes visited by Respondent with or without Respondent present.

12. Respondent shall not work for a nurse's registry, in any private duty position as a registered nurse, a temporary nurse placement agency, or for an in-house nursing pool.

13. Respondent shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the Board. Respondent shall not work in any other registered nursing occupation where home visits are required.

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14. Respondent shall not work in any health care setting as a supervisor of registered nurses. The Board may additionally restrict Respondent from supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

15. Respondent shall not work as a faculty member in an approved school of nursing or as an instructor in a Board approved continuing education program.

16. Respondent shall work only on a regularly assigned, identified and predetermined worksite(s) and shall not work in a float capacity.

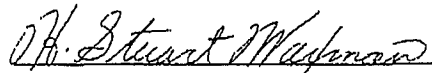
17. If Respondent is working or intends to work in excess of 40 hours per week, the Board may request documentation to determine whether there should be restrictions on the hours of work.

18. If Respondent violates the conditions of his probation, the Board after giving Respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline of Respondent's license.

19. If during the period of probation, an accusation or petition to revoke probation has been filed against Respondent's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against Respondent's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Board. Upon successful completion of probation, Respondent's license will be fully restored.

Each term and condition of probation contained herein is a separate and distinct term and condition. If any term and condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each term and condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

DATED: November 15, 2000


H. STUART WAXMAN
Administrative Law Judge
Office of Administrative Hearings

1 BILL LOCKYER, Attorney General
of the State of California
2 EARL R. PLOWMAN, State Bar No. 54339
Deputy Attorney General
3 300 South Spring Street, Suite 500
Los Angeles, CA 90013
4 Telephone: (213) 897-2536
Facsimile: (213) 897-2804
5
6 Attorneys for Complainant
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8 BEFORE THE
BOARD OF REGISTERED NURSING
9 DEPARTMENT OF CONSUMER AFFAIRS
10 STATE OF CALIFORNIA

11 In the Matter of the Statement of Issues Against:) NO. 2000-193

12 **PIERRE WASOLUA NSILU**
1527 Rock Glen Avenue #106
13 Glendale, CA 91205

STATEMENT OF ISSUES

14 Applicant/Respondent.
15
16

17 Ruth Ann Terry, M.P.H., R.N., as causes for denial of Pierre Wasolua Nsilu's
18 application for licensure as a registered nurse, alleges:

19 1. Complainant Ruth Ann Terry, M.P.H., R.N., makes and files this statement of
20 issues in her official capacity as Executive Officer, Board of Registered Nursing, Department of
21 Consumer Affairs.

22 2. Under Business and Professions Code section 2736, the Board of Registered
23 Nursing may deny a license when it finds that the applicant has committed any acts constituting
24 grounds for denial of licensure under section 480 of that code.

25 3. Under Business and Professions Code section 2761, the Board of Registered
26 Nursing may deny a license if the applicant has been convicted of a felony or any offense
27 substantially related to the qualifications, functions and duties of a registered nurse.

1 4. Under Business and Professions Code section 480, the Board of Registered
2 Nursing may deny a license when it finds that the applicant has committed any act which, if done
3 by a licensee, would be grounds for discipline, has done any act involving dishonesty, fraud or
4 deceit, or has been convicted of a crime substantially related to the qualifications, functions or
5 duties of a licensed registered nurse.

6 5. On or about January 6, 1999, the Board of Registered Nursing received a
7 request for repeat examination for a registered nurse license from Pierre Wasolua Nsilu
8 (hereinafter "respondent"). On December 14, 1998, respondent certified under penalty of
9 perjury that the information contained in the application was true and correct.

10 6. Grounds exist to deny respondent's application under Business and Professions
11 Code sections 480(a)(1) and 2761(f) in that on December 17, 1998, he was convicted by the court
12 on his plea of nolo contendere for violating Penal Code section 415 (disturbing the peace), in the
13 Los Angeles County Municipal Court, Case Number 8CR30391, entitled People v. Pierre
14 Wasolua Nsilu.

15 The circumstances surrounding the conviction are substantially related to the
16 qualifications, functions or duties of a registered nurse in that on or about December 7, 1997,
17 respondent grabbed D. T. by her arms and threw her into the kitchen wall, and attempted to
18 choke her with his hands, inflicting scratches on both of her forearms and redness to her neck.

19 7. Grounds exist to deny respondent's application under Business and Professions
20 Code section 480(a)(3) in that he committed an act, as set forth in paragraph 6 above, which if
21 done by a licentiate would be grounds for suspension or revocation of the license when he was
22 convicted of a crime substantially related to the qualifications, functions or duties of a registered
23 nurse. This conduct would constitute grounds for discipline under Business and Professions
24 Code section 2761(f).

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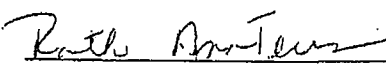
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WHEREFORE, complainant prays that a hearing be held and that if the allegations set forth herein, or any of them are found to be true, that the application of Pierre Wasolua Nsilu for licensure as a registered nurse be denied.

DATED: 5/9/00


RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California

Complainant